

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Case No. 5:22-cv-00050-M

MADISON CAWTHORN,

Plaintiff,

v.

ORDER

DAMON CIRCOSTA, in his official capacity  
as Chair of the North Carolina State Board of  
Elections,

STELLA ANDERSON, in her official capacity  
as a member of the North Carolina State Board  
of Elections,

JEFF CARMON, in his official capacity as a  
member of the North Carolina State Board of  
Elections,

STACY EGGERSIV, in his official capacity as  
a member of the North Carolina State Board of  
Elections,

TOMMY TUCKER, in his official capacity as  
a member of the North Carolina State Board of  
Elections,

KAREN BRINSON BELL, in her official  
capacity as the Executive Director of the North  
Carolina State Board of Elections,

Defendants.

This matter comes before the court on the Mandate issued today by the Fourth Circuit Court of Appeals[DE 113]. In light of the Fourth Circuit's opinion and mandate, the stay of proceedings imposed in this case on March 30, 2022 [DE 105] is LIFTED.

In its May 24, 2022 opinion, the Fourth Circuit concluded that the 1872 Amnesty Act did not prohibit the North Carolina State Board of Elections from hearing a challenge by Defendant-Intervenors

to the Plaintiff's qualifications to run as a candidate for election to the U.S. House of Representatives in North Carolina's 11<sup>th</sup> Congressional District. Op., DE 110. With respect to the timing and viability of Plaintiff's claims in this case, the court noted that

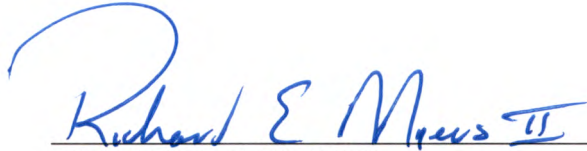
Representative Cawthorn suggests that this case is moot because unofficial reports from the May 17 primary suggest he will not be the nominee for his party this year. Nevertheless, based on the record before us, this appeal is not currently moot in an Article III sense because a primary winner has not yet been certified and it does not appear the challengers have withdrawn their challenge. And to the extent future developments may bear on any mootness inquiry—including whether a controversy is reasonably likely to recur—we are ill-suited to assess such matters on the current record. Because the district court is better suited to apply this fact-intensive test, we leave any questions about whether the primary results will ultimately moot this case to that court in the first instance.

*Id.* at 4 n.1 (citations omitted). On May 17, 2022, North Carolina held its primary elections and, in the 11<sup>th</sup> Congressional District, Plaintiff lost the contest for the Republican nomination to Chuck Edwards. *See* [https://er.ncsbe.gov/?election\\_dt=05/17/2022&county\\_id=0&office=FED&contest=0](https://er.ncsbe.gov/?election_dt=05/17/2022&county_id=0&office=FED&contest=0), last visited June 15, 2022. Plaintiff conceded the race to Mr. Edwards late in the evening on May 17, 2022. <https://www.nbcnews.com/politics/2022-election/madison-cawthorn-concedes-chuck-edwards-north-carolina-rcna29268>, last visited June 15, 2022. The State Board of Elections unanimously certified the results of the 2022 primary elections on June 9, 2022. <https://www.ncsbe.gov/news/press-releases/2022/06/09/state-board-unanimously-certifies-2022-primary-and-municipal-election-results>, last visited June 15, 2022.

Plaintiff's remaining claims in this case dispute the Defendants' ability to hear challenges to his candidacy for the 2022 congressional election. Accordingly, the court DIRECTS the Plaintiff to advise the court, in writing, whether he desires to proceed in this action and ORDERS all parties to show cause

why this case should not be dismissed as moot. The parties shall file their briefs on or before July 1, 2022.

SO ORDERED this 15<sup>th</sup> day of June, 2022.

  
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RICHARD E. MYERS II  
CHIEF UNITED STATES DISTRICT JUDGE